

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:15-CV-294-D

WESTERN PLASTICS, INC.,)
)
 Plaintiff,)
)
 v.)
)
 DUBOSE STRAPPING, INC.,)
)
 Defendant.)

ORDER

On July 2, 2015, Western Plastics, Inc. (“WP” or “plaintiff”) filed this action against DuBose Strapping, Inc. (“DuBose” or “defendant”) alleging patent infringement [D.E. 1]. The parties conducted extensive discovery and motions practice, during which WP conceded infringement of U.S. Patent No. 8,080,304 (“the ‘304 Patent’”). See [D.E. 66] 1–2. On November 18, 2019, a jury trial began on four issues [D.E. 203]. On November 22, 2019, the jury returned a verdict in favor of WP on each issue [D.E. 219]. On December 20, 2019, DuBose moved for judgment as a matter of law, renewed its motion for a directed verdict [D.E. 242], and filed a memorandum in support [D.E. 243]. On January 17, 2020, WP responded in opposition [D.E. 256]. On January 31, 2020, DuBose replied [D.E. 260].

As for the trial, issue one was, “Did plaintiff Western Plastics, Inc. prove by a preponderance of the evidence that defendant DuBose Strapping, Inc. willfully infringed U.S. Patent No. 8,080,304 (‘the ‘304 Patent’)?” [D.E. 219] 1. The jury answered, “Yes” to issue one. See id. Issue two was, “Did defendant DuBose Strapping, Inc. prove by clear and convincing evidence that one or more claims of the ‘304 Patent is invalid as ‘anticipated,’ or, in other words, not new?” Id. at 2. The jury answered, “No” to issue two. See id. Issue three was, “Did defendant DuBose Strapping, Inc. prove by clear and convincing evidence that the differences between the subject matter of the claimed

invention in the '304 Patent and the prior art are such that the subject matter of any of the following claims would have been obvious at the time the invention in the '304 Patent was made to persons having ordinary skill in the pertinent art?" Id. at 3. The jury answered, "No" to issue three. See id. Issue four was, "Did plaintiff Western Plastics, Inc. prove by a preponderance of the evidence that it is entitled to recover lost profits from defendant DuBose Strapping, Inc?" Id. The jury answered, "Yes" to issue four, and awarded \$614,548.00 in lost profits damages to WP. See id.

In this court's extensive summary judgment order, the court analyzed many of the same legal arguments that DuBose renews. See [D.E. 140]. The court left several issues for the jury. In turn, the jury answered these issues based on substantial evidence. See [D.E. 219] 1-3. Having considered DuBose's motion for judgment as a matter of law and renewed motion for directed verdict under the applicable standard, the court denies the motion for the reasons stated in WP's comprehensive response in opposition. See [D.E. 256].

In sum, the court DENIES DuBose's motion for judgment as a matter of law and renewed motion for a directed verdict [D.E. 242].

SO ORDERED. This 24 day of September 2020.



JAMES C. DEVER III
United States District Judge